

EXHIBIT “C”

Correspondence between KB and Indian harbor for the period from August 28,
2007 to October 12, 2009.



Travis W. Cope, Esq.
Senior Regional Counsel, Consumer Affairs – Texas and the Southeast
210-301-2958 (direct)

4800 Fredericksburg Road
San Antonio, Texas 78229
210-308-6811 (fax)

August 28, 2007

By: Federal Express – 7982 5128 2217

Wayne Champagne
Innovative Concrete Construction
11110 Osgood
San Antonio, Texas 78233

Re: Cause No. 2007-CI-05258; *San Antonio Housing Authority v. MAGI Realty, Inc. d/b/a Mirasol Joint Venture Team v. KB Home Lone Star, L.P. f/l/a Kaufman & Broad Lone Star, L.P.*; In the 408th Judicial District Court of Bexar County, Texas.

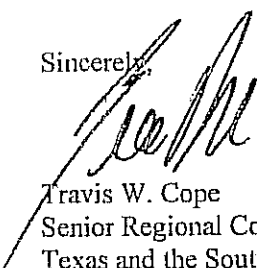
Mr. Champagne:

Please be advised that San Antonio Housing Authority (SAHA) has put KB Home on notice of possible construction defect claims relating to the construction of approximately 250 homes in 2000-2001 in what is known as the Mirasol project in San Antonio, Texas. Please note that Innovative Concrete Construction, upon information and belief, was a subcontractor relating to the structural foundations and/or slabs for this project. SAHA has put KB Home on notice of alleged defects relating to the structural foundations and/or slabs on this project. Pursuant to the enclosed Certificates of Insurance and/or normal operating practice, it appears that Innovative Concrete Construction, carried insurance at the time of this work. It also appears that KB Home may be an additional insured under the policy(ies).

As a result, KB Home is putting you and your insurance carriers on notice pursuant to the Residential Construction Liability Act and all other relevant statutes and common law of the allegations made against KB Home and KB Home's intent to seek contribution/indemnity, both in common law, statutory law and contractually and any other remedies, including but not limited to breach of contract, against the insurance of Innovative Concrete Construction relating to this work. Please note that KB will seek all available remedies including attorney fees and costs of court. As this case is ongoing and repair demands are already being made, time is of the essence. I would ask that you please immediately turn this notice letter over to your insurer and have them contact me regarding the allegations. Please note that this letter is not intended to assert a claim against Innovative Concrete Construction, but rather to determine if there is insurance coverage that may apply to cover these claims.

Thank you for your cooperation in this regard. If you have any questions, please do not hesitate to call me.

Sincerely,



Travis W. Cope
Senior Regional Counsel, Consumer Affairs
Texas and the Southeast

cc (w/enc):

By: Federal Express – 7924 0660 5913
Tom Hotaling Insurance Agency
888 Isom Road, Suite 201
San Antonio, Texas 78216

By: Certified Mail, Return Receipt Requested
7006 2150 0004 2845 3489
GSM Insurers - San Antonio
P.O. Box 1478
Rockport, Texas 78382

By: Certified Mail, Return Receipt Requested
7006 2150 0004 2845 3472
Timberline Insurance Services
P.O. Box 100226
San Antonio, Texas 78201

By: Federal Express – 7987 5109 6358
Texas National Agency, Inc.
4801 N.W. Loop 410, Suite 115
San Antonio, Texas 78229

By: Federal Express – 7987 5110 3880
Len Boyd & Associates, Inc.
213 E. Aviation
Universal City, Texas 78148



Travis W. Cope, Esq.
Senior Regional Counsel – Texas and the Southeast Regions
210-301-2958 (direct)

4800 Fredericksburg Road
San Antonio, Texas 78229
210-308-6811 (fax)

September 7, 2007

Via Regular and Certified Mail, Return Receipt Requested

Wayne Champagne
Innovative Concrete Construction
828 Fern Meadow Drive
Universal City, Texas 78148

Via Regular and Certified Mail, Return Receipt Requested

Wayne Champagne
Innovative Concrete Construction
8401 North New Braunfels Avenue
San Antonio, Texas 78209

Via Regular and Certified Mail, Return Receipt Requested

Elaine Hollier, Vice President
619 Warehouse, Suite 256
Anchorage, Alaska 99505

Via Regular and Certified Mail, Return Receipt Requested

Fred Powell, Director
5807 Shadow Way
San Antonio, Texas 78218

Re: Cause No. 2007-CI-05258; *San Antonio Housing Authority v. MAGI Realty, Inc. d/b/a Mirasol Joint Venture Team v. K B Home Lone Star, L.P. f/k/a Kaufman & Broad Lone Star, L.P.*; In the 408th Judicial District Court of Bexar County, Texas.

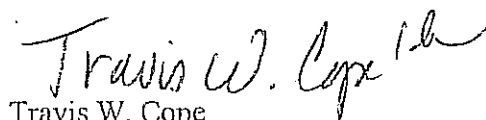
To Whom It May Concern:

Please be advised that San Antonio Housing Authority (SAHA) has put KB HOME Lone Star, Inc. f/k/a KB HOME Lone Star LP f/k/a Kaufman & Broad Lone Star, L.P. ("KB") on notice of alleged defects regarding the foundation at 142 Villa Grande which is one of the homes of the Mirasol project in San Antonio, Texas. Pursuant to our previous notice, please be advised that SAHA is currently planning repairs to the foundation of this home and should you want to inspect the property prior to these repairs you need to contact us immediately. Please note that your insurance carrier may require an inspection of the homes prior to the repairs to determine the amount

of coverage.

Thank you for your cooperation in this regard. If you have any questions, please do not hesitate to call me at (210) 736-6600.

Sincerely,



Travis W. Cope

Senior Regional Counsel - Texas and the Southeast

cc: Via Regular and Certified Mail, Return Receipt Requested

Tom Hotaling Insurance Agency
888 Isom Road, Suite 201
San Antonio, Texas 78216

Via Regular and Certified Mail, Return Receipt Requested

GSM Insurors - San Antonio
P.O. Box 1478
Rockport, Texas 78382

Via Regular and Certified Mail, Return Receipt Requested

Timberline Insurance Services
P.O. Box 100226
San Antonio, Texas 78201

Via Regular and Certified Mail, Return Receipt Requested

Guaranty Insurance Services, Inc.
f/k/a Texas National Agency, Inc.
1300 South Mopac Expressway, Floor 3N
Austin, Texas 78746

Via Regular and Certified Mail, Return Receipt Requested

Len Boyd & Associates, Inc.
213 E. Aviation
Universal City, Texas 78148



ABERCROMBIE, SIMMONS & GILLETTE OF SAN ANTONIO, INC.

Adjusters - Investigators - Claim Managers

8700 CROWNHILL BLVD. • SUITE 801 • SAN ANTONIO, TEXAS 78209 • PHONE/210-824-3941 • FAX/210-824-4306

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CHARLESTON

Phone/843-849-0951
Fax/843-881-6372

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NORFOLK

Phone/757-473-8281
Fax/757-474-8234

September 18, 2007

Mr. Travis W. Cope, Esq

KB Homes

4800 Fredericksburg Rd.

San Antonio, Texas 78229

RE: Cause No. 2007-CI-05258

San Antonio Housing Authority vs Innovative Concrete Construction

Our File Number: 50,5421

Dear Mr. Cope,

Please be advised that I am in receipt of your letter dated August 28, 2007 addressed to Innovative Concrete Construction. I am an Independent Adjuster who has been assigned to investigate this matter on behalf of Indian Harbor Insurance Company, the liability carrier for Innovative Concrete Construction.

At this time I am attempting to contact Mr. Wayne Champagne of Innovative Concrete Construction in hopes of furthering the investigation of this matter. At this time I would request you send me a copy of any and all relevant documentation regarding the potential claim being asserted.

I appreciate your cooperation in this matter. Please feel free to call me at the number above.

Sincerely,

Chuck Clemons

Chuck Clemons

Adjuster

CC/mh



Travis W. Cope, Esq.
Senior Regional Counsel - Texas and the Southeast Regions
210-301-2958 (direct)

4800 Fredericksburg Road
San Antonio, Texas 78229
210-308-6811 (fax)

October 9, 2007

Via U.S. Regular Mail and
Certified Mail, Return Receipt

Chuck Clemons
Adjuster
Abercrombie, Simmons & Gillette
8700 Crownhill Blvd., Suite 801
San Antonio, Texas 78209

Re: Your File No.: 50.5421
Our Client: KB HOME Lone Star Inc.

Cause No. 2007-CI-05258; *San Antonio Housing Authority v. MAGI Realty, Inc. d/b/a Mirasol Joint Venture Team v. KB Home Lone Star, L.P. f/k/a Kaufman & Broad Lone Star, L.P.*; In the 408th Judicial District Court of Bexar County, Texas.

Dear Mr. Clemons:

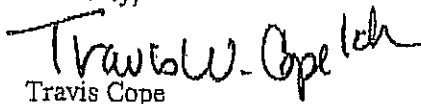
Pursuant to your correspondence dated September 18, 2007, enclosed please find a copy of the following documents for your review:

1. A list of homes in the Mirasol project made the basis of the above referenced lawsuit;
2. A copy of the Independent Contractor Agreements pertaining to Innovative Concrete Construction Company, Inc.;
3. Live pleading of San Antonio Housing Authority; and
4. Live pleading of MAGI Realty, Inc. d/b/a Mirasol Joint Venture Team.

Please forward a copy of Innovative Concrete Construction Company, Inc.'s insurance policy(ies) to me at your earliest convenience..

Thank you for your cooperation in this regard. If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Travis W. Cope". The signature is written in a cursive, slightly slanted style. The first name "Travis" is written in a larger, more prominent script, followed by "W." and "Cope".

Travis Cope
Senior Regional Counsel

Encl:



LANGLEY & BANACK

INCORPORATED

Attorneys and Counselors at Law

ROGER D. KIRSTEIN
SENDER'S E-MAIL ADDRESS:
rkirstein@langleybanack.com

October 9, 2007

Chuck Clemons
Adjuster
Abercrombie, Simmons & Gillette
8700 Crownhill Blvd., Suite 801
San Antonio, Texas 78209

Re: Your File No.: 50.5421
Our Client: KB Home

Cause No. 2007-CI-05258; *San Antonio Housing Authority v. MAGI Realty, Inc. d/b/a Mirasol Joint Venture Team v. K B Home Lone Star, L.P. f/k/a Kaufman & Broad Lone Star, L.P.*; In the 408th Judicial District Court of Bexar County, Texas.

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3. Live pleading of San Antonio Housing Authority; and
4. Live pleading of MAGI Realty, Inc. d/b/a Mirasol Joint Venture Team.

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Chuck Clemons
Abercrombie, Simmons & Gillette
October 9, 2007
Page No. 2

Please forward a copy of Innovative Concrete Construction Company, Inc.'s insurance policy(ies) to me at your earliest convenience.

Thank you for your cooperation in this regard. If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

Roger D. Kirstein



ABERCROMBIE, SIMMONS & GILLETTE OF SAN ANTONIO, INC.

Adjusters - Investigators - Claim Managers

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Fax/843-881-6372

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Fax/757-473-8233

October 22, 2007

Mr. Travis W. Cope, Esq

KB Homes

4800 Fredericksburg Rd.

San Antonio, Texas 78229

RE: Cause No. 2007-CI-05258

San Antonio Housing Authority vs Innovative Concrete Construction

Our File Number: 50.5421

Dear Mr. Cope,

I am writing in response to your correspondence dated October 9, 2007. Thank you very much for providing the documentation regarding this loss.

I am requesting further information on this matter. More specifically, I am requesting a copy of the notice of completion, the cost of the repairs that were done and the insurance history on this matter.

I do not have a copy of the insurance policy for Innovative Concrete Construction, however, I have passed your request on to the insurance company.

Should you have any questions, please feel free to contact me.

Sincerely,

Chuck Clemons
by mh

Chuck Clemons

Adjuster

CC/mh



ABERCROMBIE, SIMMONS & GILLETTE OF SAN ANTONIO, INC.

Adjusters - Investigators - Claim Managers

8700 CROWNHILL BLVD. • SUITE 801 • SAN ANTONIO, TEXAS 78209 • PHONE/210-824-3941 • FAX/210-824-4306

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Fax/757-473-8233

November 28, 2007

Mr. Travis W. Cope, Esq
KB Homes
4800 Fredericksburg Rd.
San Antonio, Texas 78229

RE: Cause No. 2007-CI-05258
San Antonio Housing Authority vs Innovative Concrete Construction
Our File Number: 50.5421

Dear Mr. Cope,

Thank you for the packet that was sent from your office on October 9, 2007. Your expedite response in this matter is greatly appreciated.

To further my investigation of this matter, I have several questions I would like to pose and would appreciate your response to those questions in writing.

In reviewing the documents you sent, I found a contract between Rayco and Lite Form of San Antonio. Who is Lite Form of San Antonio, why they are involved in the claim and what type of work they performed for San Antonio Housing Authority.

In respect to Innovative Concrete Construction, I was only able to find a scope of work which is very general. The contract was to install all house slabs and garage slabs but does not specify which project or location. I need more details in respect to which homes Innovative allegedly constructed and which project.

Further, I would like to ask if the contract you provided is even the one for the site involved in the litigation.

In closing, any and all information you can give me in respect to the questions above would be greatly appreciated. To date I have been unable to locate Mr. Wayne Champagne, however, the insurance company still has a duty under the contract to investigate the loss and determine if there is, indeed, any exposure.

I look forward to your prompt response.

Sincerely,

Chuck Clemons
Chuck Clemons

Adjuster

CC/mh

LANGLEY & BANACK

INCORPORATED

Attorneys and Counselors at Law

ROGER D. KIRSTEIN
SENDER'S E-MAIL ADDRESS:
rkirstein@langleybanack.com

January 8, 2008

Certified Article Number

7160 3901 9849 9146 6117

SENDERS RECORD

Certified Mail, RRR
Regular U. S. Mail

Chuck Clemons
Adjuster
Abercrombie, Simmons & Gillette
8700 Crownhill Blvd., Suite 801
San Antonio, Texas 78209

Re: Cause No. 2007-CI-05258; *San Antonio Housing Authority v. MAGI Realty, Inc.*
d/b/a Mirasol Joint Venture Team; In the 408th Judicial District Court of Bexar
County, Texas.

Dear Mr. Clemons:

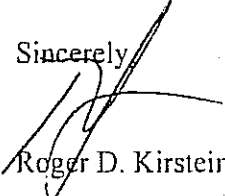
Please be advised that on January 4, 2008; the Court entered the enclosed order regarding the inspection of the properties which are the subject of the above referenced claims. You will see that the schedule not only includes the dates for the inspections, but also includes dates for the repairs to begin.

You are invited and requested to participate in these inspections to the full extent necessary to be able to reasonably evaluate liability, damages, and your exposure for these claims.

You are also advised that preliminary settlement negotiations have begun, and are ongoing. You are also invited and requested to join those negotiations and participate fully with respect to your exposure.

If you have any questions, please contact the undersigned.

Sincerely,


Roger D. Kirstein

RDK/eg

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liated Corporations

TEXAS

BEAUMONT

Phone/409-832-9777
Fax/409-832-4228

January 17, 2008

LEGE STATION

Phone/979-693-1290
Fax/979-693-3339

Mr. Roger Kirstein, Attorney
745 E. Mulberry, Suite 900
San Antonio, Texas 78212

ORPUS CHRISTI

Phone/361-992-8127
Fax/361-992-9427

RE: Cause No. 2007-CI-05258

DALLAS

Phone/972-243-1085
Fax/972-243-0999

San Antonio Housing Authority vs Innovative Concrete Construction
San Antonio Housing Authority vs Morrison & Son
Our File Numbers: 50.5421 and 50.5472

HOUSTON

Phone/713-680-2333
Fax/713-680-2371

Dear Mr. Kirstein,

MCALLEN

Phone/956-683-9370
Fax/956-683-0807

Please be advised I am receipt of your letter dated January 8, 2008. It is my understanding this letter and court ruling outlines the dates in which the homes at Mirasol Project will be open for inspection.

ALABAMA

MOBILE

51-342-5585
51-342-3551

I am an Independent Adjuster who is working on behalf of the insurer for the above sub-contractors which were involved in this project.

FLORIDA

LAUDERDALE

Phone/954-567-0823
Fax/954-567-0826

I am requesting to be placed on the schedule to attend the inspections so I can inspection the damages allegedly caused by Innovative Concrete Construction and Morrison & Son.

JACKSONVILLE

Phone/904-367-0863
Fax/904-367-0868

Please contact me with the dates, times and locations for the inspections or if you have any questions.

TAMPA

Phone/813-269-7787
Fax/813-269-0966

Sincerely,

GEORGIA

ATLANTA

Phone/770-956-7071
Fax/770-956-7049

Chuck Clemons
Adjuster

SAVANNAH

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CC/mh

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January 17, 2008

Mr. Travis W. Cope, Esq

KB Homes

4800 Fredericksburg Rd.

San Antonio, Texas 78229

RE: RE: Cause No. 2007-CI-05258

San Antonio Housing Authority vs Innovative Concrete Construction

San Antonio Housing Authority vs Morrison & Son

Our File Numbers: 50.5421 and 50.5472

Dear Mr. Cope,

This is in follow-up to my letter of November 28, 2007. To date I have had no response to my request for information. Enclosed is another copy of my letter and I am requesting you respond.

To date, no one has provided a list of deficiencies and the specific damages alleged to have been caused by the subcontractors.

I look forward to your response in this matter.

Sincerely,

Chuck Clemons
by 1/16/08

Chuck Clemons

Adjuster

CC/mh

Lisa Bernsen

From: Lisa Bernsen [lbernsen@langleybanack.com]
Sent: Wednesday, January 23, 2008 2:47 PM
To: 'cclemons@asg-adj.com'
Subject: Inspection Schedule
Attachments: 23610001.pdf

Please see attached.

Lisa Bernsen
lbernsen@langleybanack.com


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LANGLEY & BANACK, INCORPORATED
Attorneys and Counselors at Law
745 EAST MULBERRY, STE 900 SAN ANTONIO, TEXAS 78212
TEL 210.736.6600 FAX 210.735.6889

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 MERITAS LAW FIRMS WORLDWIDE

From: lkonfax@langleybanack.com [mailto:lkonfax@langleybanack.com]
Sent: Tuesday, January 22, 2008 8:37 AM
To: Lisa Bernsen
Subject: Attached Image

1/23/2008



818 S. PUEBLO ST. @ SAN ANTONIO, TEXAS 78204 @ WWW.SAHA.ORG

TO: All Parties

VIA FACSIMILE

DATE: January 18, 2008

RE: Inspection Schedule 01/30/08 - 02/01/08

The inspection schedule is set forth below. Additionally, the inspection reports can be found on SAHA's website and new reports will be added to the website as they are received.

01/30/08

08:00 -115 Villa Arboles

10:00 -111 Villa Grande

01:00 -135 Villa Grande

03:00 -102 Villa Arboles

01/31/08

08:00 -122 Villa Arboles

10:00 -126 Villa Arboles

01:00 -1503 Villa Flores

03:00 -407 Precious

02/01/08

08:00 -1210 NW 27th

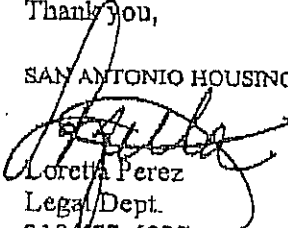
10:00 -2623 Villa Norte

01:00 -103 Villa Arboles

03:00 -107 Villa Arboles

Thank you,

SAN ANTONIO HOUSING AUTHORITY


Loretta Perez

Legal Dept.

210/477-6027

PALUMBO
BERGSTROM

California / Colorado / Nevada

17901 Von Karman Avenue
Suite 500
Irvine, CA 92614

tel 949.442.0300
fax 949.251.1331

ir@palumbolawyers.com

July 30, 2008

Chuck Clemons
Independent Adjuster
Abercrombie, Simmons & Gillette
8700 Crownhill Boulevard, Suite 801
San Antonio, Texas 78209

Re: **San Antonio Housing Authority v. MAGI Realty d/b/a Mirasol Joint
Venture Team, et al.**

Policy Holder: Innovative Concrete Construction
Policy Number: AIL022000044
Policy Period: 10/18/00 – 10/18/01
File No.: 50.54421
Our Client: KB Homes, Inc.

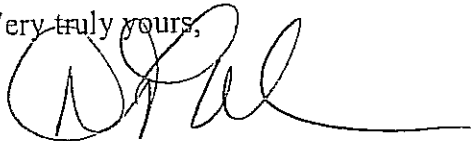
Dear Mr. Clemons:

Please be advised that Palumbo Bergstrom has been retained as co-counsel for KB Homes, Inc., in the above-referenced matter. We are handling the additional insured issues relative to KB Homes' previous Notice of Claim submitted to your company by your insured, Innovative Concrete Construction. We ask that you kindly direct all future correspondence regarding this additional insured claim to both the undersigned and Langley & Banack, Inc., and thank you in advance for your assistance in this regard.

We have received copies of prior correspondence to you from Langley & Banack, Inc., providing information to assist you in your coverage review. However, there is no record of Indian Harbor's final coverage determination and as such, we request that you provide us with the same at your earliest opportunity. Should you require information or documents in addition to that which was previously provided, please let us know.

Thank you for cooperation with regard to the foregoing and please do not hesitate to contact the undersigned with any questions.

Very truly yours,



Diane O. Palumbo

DOP/crg

K:\KB Home\SAHA\AI\Correspondence\Innovative Concrete\Indian Harbor 7-30-08.doc

PALUMBO
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California / Colorado / Nevada

17901 Von Karman Avenue
Suite 500
Irvine, CA 92614

tel 949.442.0300
fax 949.251.1331

ir@palumbolawyers.com

Demand for Tender Determination Pursuant to Texas Insurance Code § 542.055

May 21, 2009

Chuck Clemons
Independent Adjuster
Indian Harbor Insurance Company
c/o Abercrombie, Simmons & Gillette
8700 Crownhill Boulevard, Suite 801
San Antonio, Texas 78209

Re: San Antonio Housing Authority v. MAGI Realty d/b/a Mirasol Joint Venture Team, et al.

Policy Holder: Innovative Concrete Construction
Your File No.: 50.54421
Our Client: KB Home, Inc.

Dear Mr. Clemons:

As we previously advised, Palumbo Bergstrom LLP has been retained as co-counsel for KB Home, Inc. in the above-referenced matter. In connection with our representation, we are handling the additional insured issues in this case.

On July 30, 2008, KB Home submitted its formal additional insured tender and/or re-tender of defense and indemnification to your company. The tender was made on all applicable policies issued by Indian Harbor Insurance Company to Innovative Concrete Construction and its related entities. At that time, we requested that you review your insured's policies and begin your investigation as required by law. We enclose a copy of our tender for your ready reference.

A review of our files shows that to date, we have not received Indian Harbor Insurance Company's response to KB Home's tender. As you may be aware, an insurer is statutorily required to acknowledge receipt of a claim, commence its investigation, and request all documents within 15 days of the date of receiving the tender. Texas Insurance Code § 542.055 provides the following:

RECEIPT OF NOTICE OF CLAIM

(a) Not later than the 15th day or, if the insurer is an eligible surplus lines insurer, the 30th business day after the date an insurer receives notice of a claim, the insurer shall:

(1) acknowledge receipt of the claim;

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San Antonio Housing Authority v. MAGI Realty d/b/a Mirasol Joint Venture Team, et al.

May 21, 2009

Page 2

- (2) commence any investigation of the claim; and
- (3) request from the claimant all items, statements, and forms that the insurer reasonably believes, at that time, will be required from the claimant.

(b) An insurer may make additional requests for information if during the investigation of the claim the additional requests are necessary.

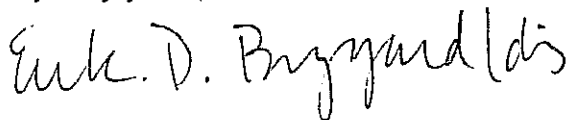
(c) If the acknowledgment of receipt of a claim is not made in writing, the insurer shall make a record of the date, manner, and content of the acknowledgment.

Added by Acts 2003, 78th Leg., ch. 1274, § 2, eff. April 1, 2005.

As you can see, the statutory timeframe requirements described above have long since passed, yet we still have not received Indian Harbor Insurance Company's response to KB Home's tender. Although a formal coverage determination may not have been made, **please provide us with your tender determination within the next 15 days of the date of this letter.**

We look forward to receiving your prompt response. Please do not hesitate to contact the undersigned should you have any questions regarding this matter.

Very truly yours,



Erik D. Buzzard

ebuzzard@palumbolawyers.com

EDB/DIS:st

Enclosure as stated

**PALUMBO
BERGSTROM**

California / Colorado / Nevada

17901 Von Karman Avenue
Suite 500
Irvine, CA 92614

tel 949.442.0300
fax 949.251.1331

ir@palumbolawyers.com

July 30, 2008

Chuck Clemons
Independent Adjuster
Abercrombie, Simmons & Gillette
8700 Crownhill Boulevard, Suite 801
San Antonio, Texas 78209

**Re: San Antonio Housing Authority v. MAGI Realty d/b/a Mirasol Joint
Venture Team, et al.**

Policy Holder: Innovative Concrete Construction
Policy Number: AIL022000044
Policy Period: 10/18/00 – 10/18/01
File No.: 50.54421
Our Client: KB Homes, Inc.

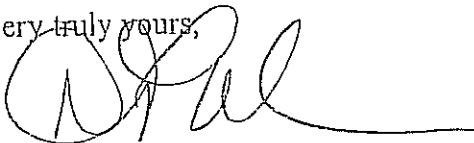
Dear Mr. Clemons:

Please be advised that Palumbo Bergstrom has been retained as co-counsel for KB Homes, Inc., in the above-referenced matter. We are handling the additional insured issues relative to KB Homes' previous Notice of Claim submitted to your company by your insured, Innovative Concrete Construction. We ask that you kindly direct all future correspondence regarding this additional insured claim to both the undersigned and Langley & Banack, Inc., and thank you in advance for your assistance in this regard.

We have received copies of prior correspondence to you from Langley & Banack, Inc., providing information to assist you in your coverage review. However, there is no record of Indian Harbor's final coverage determination and as such, we request that you provide us with the same at your earliest opportunity. Should you require information or documents in addition to that which was previously provided, please let us know.

Thank you for cooperation with regard to the foregoing and please do not hesitate to contact the undersigned with any questions.

Very truly yours,



Diane O. Palumbo

DOP/crg

K:\KB Home\SAHA\AI\Correspondence\Innovative Concrete\Indian Harbor 7-30-08.doc

TENDER OF ADDITIONAL INSURED DEFENSE AND INDEMNIFICATION

June 17, 2009

Chuck Clemons
Independent Adjuster
Indian Harbor Insurance
c/o Abercrombie, Simmons & Gillette
8700 Crownhill Blvd., Suite 801
San Antonio, TX 78209

Re: Jessie and Mary Arias, et al. v. KB Home, et al.

Bexar County, 288th Texas Judicial District Court Case No.: 2009-CI-05175

Named Insured: Innovative Concrete Construction
Our Client: KB Home Lone Star, L.P. f/k/a Kaufman & Broad Lone Star, L.P.
(successor to Rayco, Ltd)
Policy Number (Period): AIL022000044 (10/18/00 – 10/18/01)

Dear Mr. Clemons:

Palumbo Bergstrom LLP has been retained to represent KB Home and its related and affiliated entities ("KB") with regard to the additional insured issues in the above-captioned matter. KB is being defended by Roger Kirstein of the Langley & Banack firm. **This correspondence shall serve as KB's additional insured tender of defense and indemnification in the above-captioned matter.** We request that you kindly direct all future correspondence regarding KB's additional insured claim to the undersigned.

This action was brought on May 28, 2009 by owners of 32 homes within the Mirasol development, located in San Antonio, Texas. You may recall that Mirasol is the subject of a separate lawsuit which has been tendered to your company on behalf of KB, styled *San Antonio Housing Authority v. MAGI Realty d/b/a Mirasol Joint Venture Team, et al.*, 408th Texas Judicial District Court Case No. 2007-CI-05258. Of the 32 homes named in the *Arias* complaint, 29 are also involved in the *SAHA* suit. Our records show that the 32 *Arias* homes were substantially completed between October 31, 2000 and February 28, 2001. We enclose a copy of our homeowner matrix for your review.

The original *Arias* petition, a copy of which is enclosed, asserts the following causes of action: Breach of Express and Implied Warranties; Deceptive Trade Practices; Fraud; Conspiracy to Defraud; and Joint Enterprise. Plaintiffs allege problems with moisture intrusion, the foundations and driveways, the temperature and valve release drains, the vapor barriers/ insulation, the shingles, the felt barriers, and the wall bottom plates. Based upon Innovative Concrete Construction's work at the project and the

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BERGSTROM

Re: Jessie and Mary Arias, et al. v. KB Home, et al.

June 17, 2009

Page 2

allegations made by plaintiffs, KB intends to file a third-party petition against your named insured. We will provide you with a conformed copy of the third-party petition once finalized.

Pursuant to the terms of the subcontract agreement between KB and Innovative Concrete Construction, Innovative Concrete Construction was required to obtain general liability insurance providing coverage to KB as an additional insured. We enclose copies of all currently available subcontract documents for your review. Further, we believe that we previously provided you with all certificates of insurance and additional insured endorsements in connection with KB's additional insured tender in the related *SAHA* matter. Should you require additional copies, please advise.

KB's tender is made on all applicable policies issued to Innovative Concrete Construction, including all policies issued by Indian Harbor Insurance and not limited to those noted above. Please review your named insured's policies and begin your investigation as required by Texas law. We also request that you immediately place any and all relevant insurance brokers and/or your co-carriers for Innovative Concrete Construction on notice that there is a potential claim within the scope of any and all applicable policies which may provide coverage for KB.

We look forward to your early response to this tender of defense. Although a formal coverage determination may not have been made, please advise our office of your claim number, the name of the assigned claim representative, and the status of the claim within the next 15 days. In the interim, please do not hesitate to contact the undersigned should you have any questions regarding this matter.

Very truly yours,



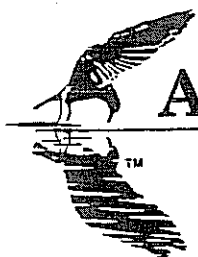
Erik D. Buzzard

ebuzzard@palumbolawyers.com

EDB/DIS:st

Enclosures as noted

cc: Roger Kirstein (w/o enclosures)
Langley & Banack, Inc.



American Claims Service, Inc.

JUL 06 2009

July 2, 2009

Palumbo Bergstrom
Erik D. Buzzard
17901 Von Karman Avenue, Su 500
Irvine, CA 92614
ebuzzard@plumbolawyers.com

Re: *Jessie and Mary Arias et al v. KB Home et al*
Case No.: 2009-CI-05175
Venue: Superior Court, Bexar County, 288th Texas Judicial District
Court
Insured: Innovative Concrete Construction, Inc.
Claim No.: 0436TX056836

Dear Mr. Buzzard:

American Claims Service is an authorized representative of Indian Harbor Insurance Company (IHIC).

This will acknowledge receipt of your letter dated June 17, 2009 seeking additional insured defense and indemnification for your clients named in the above matter.

To assist us in responding to your tender we will require the following documents. 1. A copy of the contract(s) between your client and the named insured involving the homes involved in this litigation. 2. Copies of any invoice(s) for work provided, specific to the homes involved in this litigation. 3. Notice of completion and/or certificate of occupancy for the homes. 4. Additional insured endorsement(s) alleged in tender letter.

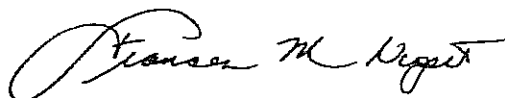
If you have any questions about the position of Indian Harbor Insurance Company as stated in this letter or if you have additional information you would like us to consider, please contact us at the address or telephone number listed herein.

Indian Harbor Insurance Company reserves its right to supplement this statement with additional grounds for reserving its rights or denying coverage should any such grounds appear hereafter. This letter is not intended to be, and should not be construed as, a

P.O. Box 8010, Goldsboro, North Carolina 27533-8010
Phone 919-759-3319 Toll Free 1-877-222-5522 Fax (919) 751-2502

waiver of any terms and conditions of the policy, or of Indian Harbor Insurance Company's rights there under, all of which continue in full force and effect

Sincerely,

A handwritten signature in cursive script, appearing to read "Frances M. Nugent".

Frances M Nugent, SCLA
Litigation Claims Examiner
919-429-4274 Phone
919-429-4588 Fax

Cc: Indian Harbor Insurance Company

Innovative Concrete Construction, Inc.
29310 Sumpter Drive
Fair Oaks Ranch, TX 78105

Innovative Concrete Construction, Inc.
8401 N New Braunfels Ave
San Antonio, TX 78209

*Protected Communication
For Settlement and Mediation Purposes Only*

****ADDITIONAL INSURED ALLOCATION AND NOTICE OF MEDIATION****

September 8, 2009

To All Responsible Additional Insuring Carriers
(See Attached Service List)

Re: San Antonio Housing Authority v. MAGI Realty d/b/a Mirasol Joint Venture Team, et al.

Bexar County District Court Case No. 2007-CI-05258

Re: Jessie and Mary Arias, et al. v. KB Home, et al.

Bexar County District Court Case No.: 2009-CI-05175

Our Client/ Your Additional Insured: KB Home, Inc., and its related and affiliated entities

Mediation Dates: September 23, 2009 and September 24, 2009

Mediator: Retired Judge John J. Specia, Jr.

Mediation Location: Plunkett & Gibson, Inc., 70 NE Loop 410, Suite 1100
San Antonio, TX 78216

Dear Claims Representative:

Please be advised that Palumbo Bergstrom has been retained to represent KB Home, Inc., and its related and affiliated entities ("KB Home"), with regard to the additional insured issues in the above-captioned litigation. The following will serve as KB Home's request for defense contribution and reimbursement from your company pursuant to KB Home's status as an additional insured under your policy.

I. Underlying Facts

A. SAHA v. MAGI, KB Home et al.

Please recall that the *SAHA v. MAGI, KB Home, et al.* construction defect action involves 229 homes¹ within the Mirasol Homes project, located in San Antonio, Texas (the "Project"). Mirasol Homes is part of the federal housing program known as HOPE VI, which main purpose was to create viable communities with safe, sanitary, and affordable housing. San Antonio Housing Authority ("SAHA"), a governmental entity affiliated with HUD, purchased and redeveloped Mirasol pursuant to a contract with MAGI Realty, the project developer. KB Home subcontracted with MAGI to be the general contractor for the Mirasol development.

¹ The dates of substantial completion for the homes at issue range from approximately August 31, 2000 to March 30, 2001.

PALUMBO
BERGSTROM |
attorneys

California / Colorado / Nevada

To: Additional Insuring Carriers

Re: **San Antonio Housing Authority v. MAGI Realty**

d/b/a Mirasol Joint Venture Team, et al.;

Jessie and Mary Arias, et al. v. KB Home, et al.

September 8, 2009

Page 2

SAHA filed its original Petition in Bexar County, Texas on April 9, 2007, and subsequently filed multiple amended petitions, including the Seventh-Amended Petition which is against KB Home, MAGI, and the project subcontractors, on August 31, 2009. We enclose a copy of the Seventh-Amended Petition for your review. SAHA alleges various defects including the following:

- (a) the exterior doors to the kitchens and the windows were improperly installed with insufficient nails, flashing, and caulking to guard against moisture intrusion, which construction defect was discovered in 2007;
- (b) the temperature and pressure release valve drains used to protect against excessive build up of pressure from the hot water heaters were not plumbed out above grade as required by the building code, which construction defect was discovered in 2007;
- (c) insufficient numbers of roofing nails were used and/or were placed incorrectly to secure the shingles to the roofs, which construction defect was discovered in October and November of 2008;
- (d) the incorrect gauge and length of roofing staples were used to affix the roof sheathing to the trusses, which construction defect was discovered in October and November of 2008;
- (e) the framing lumber used as bottom plates for the exterior walls was not made of pressure-preservative treated lumber and the framing lumber used for the bottom plates of the interior and exterior walls was not properly affixed to the foundation, which construction defect was discovered in October and November of 2008;
- (f) the black felt membrane beneath the exterior siding was installed improperly, failing to establish an effective moisture barrier, which construction defect was discovered in October and November of 2008;
- (g) the exterior brick veneers were improperly constructed to prevent their collapse and their entrapment of moisture, which construction defect was discovered in October and November of 2008; and
- (h) the driveways and sidewalks were not properly constructed, and the rebar embedded within them was not placed at the proper depth, which construction defect was discovered in October and November of 2008.

PALUMBO
BERGSTROM
Attorneys

California / Colorado / Nevada

To: Additional Insuring Carriers
Re: San Antonio Housing Authority v. MAGI Realty
d/b/a Mirasol Joint Venture Team, et al.;
Jessie and Mary Arias, et al. v. KB Home, et al.
September 8, 2009
Page 3

On October 15, 2007, KB Home filed a Third-Party Petition against the project subcontractors, and subsequently multiple amended third-party petitions, including the Sixth-Amended Third-Party on May 11, 2009.

B. Arias, et al. v. KB Home, et al.

This action was originally brought on May 28, 2009 by the owners of 32 homes, also within the Mirasol project. Plaintiffs filed First and Second-Amended Petitions on June 26, 2009 and August 28, 2009, respectively. Of the 50 homes currently named in the *Arias* complaint, 46 are previously involved in the *SAHA* suit.²

The *Arias* petition alleges defects which are identical to those alleged by *SAHA* as described above. Thus, while the *Arias* and *SAHA* cases involve different plaintiffs, these cases allege the exact same claims and therefore, the defense of both cases is one and the same. The parties are currently negotiating consolidation of the claims into one action.

II. Additional Insured Obligation

KB Home has tendered its defense and indemnification to your company. However, with the exception of Republic Underwriters, none of the carriers have agreed to defend KB in this matter despite the obligations of several carriers to provide KB with a defense pursuant to the additional insured endorsement(s) to their policies. We provide below the basis for KB's additional insured demand to the carriers included in the allocation set forth below, as well as the status of the various carriers' response to our client's tender. To the extent that you have not provided your written tender determination, please forward same to us no later than **September 18, 2009**.

<u>Carrier</u>	<u>Basis for Demand</u>	<u>Tender Status</u>
Subcontractor Named Insured		
<u>Republic Underwriters</u> Ashley Plumbing	AI coverage in favor of KB Home	Carrier agreed to defend.
<u>Hartford Casualty & Surety</u> Champion Windows	Numerous policies containing "blanket" additional insured endorsements	Carrier is still investigating.
<u>Zurich North America</u> Champion Windows	Policies contain "blanket" additional insured endorsements	Carrier denied stating that no AIE is found.
<u>Indian Harbor</u> Innovative Concrete	Form 2026 1185 - AIE per contract Contract does require AI for KB	No response to tender from carrier.
<u>Mid Continent</u> Innovative Concrete	Form 2010 1185 in favor of KB Home	Carrier still investigating.

² Our records show that the *Arias* homes were substantially completed between October 31, 2000 and February 28, 2001.

PALUMBO
BERGSTROM
attorneys

California / Colorado / Nevada

To: Additional Insuring Carriers
Re: **San Antonio Housing Authority v. MAGI Realty**
d/b/a Mirasol Joint Venture Team, et al.;
Jessie and Mary Arias, et al. v. KB Home, et al.
September 8, 2009
Page 4

<u>Carrier</u>	<u>Basis for Demand</u>	<u>Tender Status</u>
Subcontractor Named Insured		
<u>Essex Insurance Co.</u> L&B Roofing	Form M/E-009 (4/99) AIE	Carrier states it is unable to locate policy.
<u>Republic Vanguard Insurance</u> Texas V&J	Form RLGL-2026 (1/01) AIE	Carrier has not provided coverage response for this policy.
<u>American States Ins. Co.</u> TG Construction	Form 2010 1185 in favor of KB Home	No response from carrier.
<u>Dallas National Ins. Co.</u> Truss Construction	AI coverage in favor of KB Home	Carrier is investigating.

As described above, KB Home qualifies for coverage as an insured under your policy. As you are aware, an insurer is obligated to defend a lawsuit if the facts alleged in the pleadings give rise to any claim within the coverage of the policy. *Utica Nat'l Ins. Co. of Tex. v. Am. Indem. Co.*, 141 S.W.3d 198, 201, 47 Tex. Sup. Ct. J. 845 (Tex. 2004). The carrier owes a duty to defend even if the petition only "potentially" states a claim within coverage. *Merchants Fast Motor Lines*, 939 S.W.2d at 141. If an insurer has a duty to defend its insured against **any** claim pleaded in the petition of the underlying suit, then the insurer is required to defend its insured against **all** claims in that petition. *Stumph v. Dallas Fire Ins. Co.*, 34 S.W.3d 722, 728 (Tex. App.--Austin 2000, no pet.).

Based upon all of the foregoing, we request your immediate participation in and contribution to the defense of KB Home as your additional insured.

III. Additional Insured Allocation

Enclosed please find our initial additional insured allocation package which sets forth your share of fees and costs incurred through August 31, 2009, which includes a tender tier summary, a list of the allocated invoices, and each carrier's respective share. **KB Home does not authorize you to share or disclose any information contained herein to any third party or to anyone handling or defending claims for other insureds involved in this matter.**

The allocation set forth herein is based upon the following factors:

- All primary direct insurance applicable to this claim is exhausted;
- The primary additional insuring carriers are responsible for 100% of the defense fees and costs since the date of tender;
- All defense fees and costs are allocated on an equal-shares basis by named insured;

**PALUMBO
BERGSTROM**
attorneys

California / Colorado / Nevada

To: Additional Insuring Carriers

Re: San Antonio Housing Authority v. MAGI Realty

d/b/a Mirasol Joint Venture Team, et al.;

Jessie and Mary Arias, et al. v. KB Home, et al.

September 8, 2009

Page 5

- Where two or more different participating additional insuring carriers issued policies to the same named subcontractor insured, only one subcontractor share is allocated among the participating carriers; and
- The additional insuring carriers are free to reallocate, as between themselves, fees and costs upon participation, reimbursement and resolution of outstanding issues in this case.

The summary of allocated defense fees and costs from the date of tender through August 31, 2009, and the current balances owing are as follows:

Subcontractor	Carrier	Allocation #001	Total Allocations	Total Payments	Balance Due
Ashley Plumbing	Republic Underwriters	\$659,850.15	\$659,850.15	0.00	\$659,850.15
Champion Windows	Hartford Casualty	\$338,417.43	\$338,417.43	0.00	\$338,417.43
Champion Windows	Zurich North America	\$338,417.43	\$338,417.43	0.00	\$338,417.43
Innovative Concrete	Indian Harbor	\$466,195.70	\$466,195.70	0.00	\$466,195.70
Innovative Concrete	Mid Continent	\$192,263.76	\$192,263.76	0.00	\$192,263.76
L&B Roofing	Essex Insurance Co.	\$277,391.59	\$277,391.59	0.00	\$277,391.59
Texas V&J	Republic Vanguard	\$360,229.09	\$360,229.09	0.00	\$360,229.09
TG Construction	American States	\$38,880.49	\$38,880.49	0.00	\$38,880.49
TG Construction	Dallas Fire Ins. Co.	\$278,207.74	\$278,207.74	0.00	\$278,207.74
Truss Construction	Dallas National Ins.	\$278,207.74	\$278,207.74	0.00	\$278,207.74
Total Due:		\$3,228,061.12	\$3,228,061.12	0.00	\$3,228,061.12

The above serves as the initial allocation of the defense fees and costs incurred by KB Home to date and known at this time. KB's defense (and the AI carriers' obligations to fund same) will be ongoing until the plaintiffs' claims are settled or adjudicated. We will send additional allocations periodically (typically every 30 days) as further defense fees and costs are incurred. Should one or more of the above carriers refuse to pay, we will likely be required to reallocate its portion of the defense fees to the remaining carriers. Similarly, should we receive agreements to defend KB from carriers which are not currently included in the allocation, we may be able to reallocate a portion of the above amounts to newly participating carriers. If we believe a carrier's refusal or denial of coverage is unjustified, we may pursue a declaratory relief judgment regarding any unresolved coverage obligations.

PALUMBO
BERGSTROM |
attorneys

California / Colorado / Nevada

To: Additional Insuring Carriers
Re: San Antonio Housing Authority v. MAGI Realty
d/b/a Mirasol Joint Venture Team, et al.;
Jessie and Mary Arias, et al. v. KB Home, et al.
September 8, 2009
Page 6

Please remit payment with reference to the case description, your named insured, claim number and our reference number 0258-1051-1 to:

Palumbo Bergstrom in Trust for KB Home Inc., Tax ID # 20-0128507
17901 Von Karman, Ste. 500
Irvine, CA 92614

IV. Notice of Mediation

Please be advised that the parties have agreed to mediate these matters in an attempt to globally settle all issues and claims in this matter. **KB Home requests the attendance of its additional insuring carriers at the mediation sessions on September 23, 2009 and September 24, 2009.** In connection with settlement of the contractual indemnity obligations held by each carrier's respective named insured, KB Home also seeks to resolve the additional insuring carriers' obligations to provide KB with a defense at the mediation. **However, should you agree to fully fund your share of the defense allocation described above, KB Home will withdraw this request for your attendance at the mediation.** Please immediately advise if your payment is forthcoming by contacting the undersigned at 949.442.0300 or ebuzzard@palumbolawyers.com.

If you elect to not remit payment for your current defense obligation, we will look forward to discussing this matter with you at the September 23, 2009 and September 24, 2009 mediation sessions, scheduled from 9:00 am to 5:00 pm with mediator Retired Judge John Specia, Jr. at his office:

Plunkett & Gibson, Inc.
70 NE Loop 410, Suite 1100
San Antonio, TX 78216
(210) 734-7092

PALUMBO
BERGSTROM

Attorneys

California / Colorado / Nevada

To: Additional Insuring Carriers

Re: San Antonio Housing Authority v. MAGI Realty

d/b/a Mirasol Joint Venture Team, et al.;

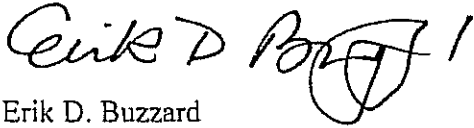
Jessie and Mary Arias, et al. v. KB Home, et al.

September 8, 2009

Page 7

Please feel free to contact the undersigned at any time should you have questions regarding the matters set forth herein. We look forward to resolving your defense obligations in short time.

Very truly yours,

A handwritten signature in black ink, appearing to read "Erik D. Buzzard". The signature is stylized with a large, looped "E" and a distinct "B".

Erik D. Buzzard

EDB/DIS/ea

Enclosures

K:\KB Home\SAHA\AI\AI Allocation\Demand Allocation 001 9-8-09.doc

SAHA v. MAGI Realty
Participating Carrier Matrix
(As of September 4, 2009)

Named Insured	Insurance Carrier	Adjuster Contact Info.
Ashley Plumbing	Republic Underwriters Date of tender: 9/20/07	Juanita Liistro Claims Representative Republic Underwriters Insurance Company P.O. Box 809056 Dallas, TX 75380-9056 Tel: (800) 451-0286 x6792 Fax: (888) 224-5874 No email provided
Champion Windows	Hartford Casualty & Surety Date of tender: 8/16/07	Elizabeth Brown Claim Consultant Complex Claim Group The Hartford Hartford Plaza, T-7-92 Hartford, CT 06115 Tel: (860) 547-5631 Elizabeth.brown@thehartford.com Claim No.: none provided
Champion Windows	Zurich North America Date of tender: 8/6/07	Brian Lund, AIC Senior Claim Specialist Zurich American Insurance Company P.O. Box 66965 Chicago, IL 60666-0965 Tel: (800) 323-7592 ex 2250 Fax: (866) 257-1205 Brian.lund@zurichna.com Claim # 9260051391
Innovative Concrete	Indian Harbor Date of tender: 10/9/07	Chuck Clemons Independent Adjuster Abercrombie, Simmons & Gillette 8700 Crownhill Boulevard, Suite 801 San Antonio, TX 78209 Tel: (210) 824-3941 Fax: (210) 824-4306 File No.: 50.5421 No email provided
Innovative Concrete	Mid Continent Date of tender: 8/5/08	Honorine Crowe Senior Claims Adjuster Mid Continent Casualty Company P.O. Box 2968 Tulsa, OK 74101-2968 Tel: (800) 453-4950 ext. 18 Tel: (713) 334-0050 ext. 18 Fax: (918) 586-0855 Claim No. 1827084 hcrowe@mcg-ins.com

SAHA v. MAGI Realty
Participating Carrier Matrix
(As of September 4, 2009)

Named Insured	Insurance Carrier	Adjuster Contact Info.
L&B Roofing	Essex Insurance Co. Date of tender: 11/3/08	S. Andrew Markel II ("Andy") Senior Claims Examiner Markel Corp. 4521 Highwoods Parkway Glen Allen, CA 23060 Direct: (804) 217-8878 Fax: (804) 273-1475 anmarkel@markelcorp.com
Texas V&J	Republic Vanguard Insurance Date of tender: 8/29/08	Ed Milstead Senior Claims Adjuster TGA Insurance Managers 7411 John Smith, Suite 1400 San Antonio, TX 78229 Tel: (210) 949-9100 Tel: (800) 677-5170 Fax: (210) 949-9122 Claim # 073994-EM No email provided
TG Construction	American States Ins. Co. Date of Tender: 6/17/09	Safeco Plaza 1001 Fourth Ave. Seattle, WA 98154
TG Construction	Dallas Fire Ins. Co. Date of Tender: 10/31/08	Camille L. Brown Dallas National Insurance Co. 14160 Parkway, Suite 500 Dallas, TX 75254 Tel: (800) 533-0457 x 259 Fax: (972) 233-8818 camille@dallasnational.com Claim No. 601916
Truss Construction	Dallas National Ins. Co. Date of Tender: 10/31/08	Camille L. Brown G.L. Claims Adjuster 14160 Dallas Parkway, Suite 500 Dallas, TX 75254 Tel: (800) 533-0457 ext 259 Fax: (972) 233-8818 Camille@dallasnationalins.com Claim No. 602695

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*Protected Communication
For Settlement and Mediation Purposes Only*

****ADDITIONAL INSURED ALLOCATION NO. 002****

October 12, 2009

To All Responsible Additional Insuring Carriers
(See Attached Service List)

Re: San Antonio Housing Authority v. MAGI Realty d/b/a Mirasol Joint Venture Team, et al.

Bexar County District Court Case No. 2007-CI-05258

Re: Jessie and Mary Arias, et al. v. KB Home, et al.

Bexar County District Court Case No.: 2009-CI-05175

Our Client/ Your Additional Insured: KB Home, Inc., and its related and affiliated entities

Mediation Dates: October 27, 28 and 29, 2009

Mediator: Retired Judge John J. Specia, Jr.

Mediation Location: Plunkett & Gibson, Inc., 70 NE Loop 410, Suite 1100
San Antonio, TX 78216

Dear Claims Representative:

Ladies and Gentlemen:

As you are aware, Palumbo Bergstrom LLP has been retained to represent Pacific Bay Homes and FN Development Company Alpha, Inc., now known as Pacific Bay Properties, Inc. ("Pacific Bay") with regard to the defense of the construction defect claims as well as the additional insured aspects of the above-referenced matter.

Enclosed please find our additional insured allocation package which sets forth your share of fees and costs incurred through September 30, 2009, which includes a tender tier summary, a list of the allocated invoices, and each carrier's respective share. Also enclosed you will find a CD with copies of invoices included in our initial allocation, which was forwarded to the participating additional insuring carriers on September 8, 1009.¹ **KB Home does not authorize**

¹ Please note that enclosed CD does not contain a complete set of the invoices included in Allocation No. 001. Our efforts to obtain all invoices incurred to date are ongoing and we will forward copies to the participating carriers upon receipt of same. In the interim, we enclose a matrix describing the missing invoices. Also enclosed are invoices incurred since the time of our first allocation, which fees and costs compose Allocation No. 002 set forth herein.

California / Colorado / Nevada

To: Additional Insuring Carriers

Re: **San Antonio Housing Authority v. MAGI Realty**

d/b/a Mirasol Joint Venture Team, et al.;

Jessie and Mary Arias, et al. v. KB Home, et al.

October 12, 2009

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you to share or disclose any information contained herein to any third party or to anyone handling or defending claims for other insureds involved in this matter.

The allocation set forth herein is based upon the following factors:

- All primary direct insurance applicable to this claim is exhausted;
- The primary additional insuring carriers are responsible for 100% of the defense fees and costs since the date of tender;
- All defense fees and costs are allocated on an equal-shares basis by named insured;
- Where two or more different participating additional insuring carriers issued policies to the same named subcontractor insured, only one subcontractor share is allocated among the participating carriers; and
- The additional insuring carriers are free to reallocate, as between themselves, fees and costs upon participation, reimbursement and resolution of outstanding issues in this case.

The summary of allocated defense fees and costs from the date of tender through September 30, 2009, and the current balances owing are as follows:

SAHA v. MAGI (KB Home) Arias vs. KB Home Summary of Additional Insured Balances Due					
Subcontractor	Carrier	Allocation #002	Total Allocations	Total Payments	Balance Due
Ashley Plumbing	Republic Underwriters	28,078.63	684,622.55	0.00	684,622.55
Champion Windows	Hartford Casualty	14,039.31	353,455.00	0.00	353,455.00
Champion Windows	Zurich North America	14,039.31	353,455.00	0.00	353,455.00
Innovative Concrete	Indian Harbor	14,039.31	476,938.46	0.00	476,938.46
Innovative Concrete	Mid Continent	14,039.31	206,293.40	0.00	206,293.40
L&B Roofing	Essex Insurance Co.	28,078.63	305,450.86	0.00	305,450.86
Texas V&J	Republic Vanguard	28,078.63	388,288.37	0.00	388,288.37
TG Construction	American States	28,078.63	66,959.12	0.00	66,959.12
TG Construction	Dallas National	28,078.63	306,267.01	0.00	306,267.01
Truss Construction	Dallas National/Hartford	28,078.63	306,267.01	0.00	306,267.01
Total Due:		224,629.01	3,447,996.80	0.00	3,447,996.80

The above serves as the allocation of the defense fees and costs incurred by KB Home to date and known at this time. KB's defense (and the AI carriers' obligations to fund same) will be ongoing until the plaintiffs' claims are settled or adjudicated. We will send additional

PALUMBO
BERGSTROM |
attorneys

California / Colorado / Nevada

To: Additional Insuring Carriers

Re: **San Antonio Housing Authority v. MAGI Realty
d/b/a Mirasol Joint Venture Team, et al.;**

Jessie and Mary Arias, et al. v. KB Home, et al.

October 12, 2009

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allocations periodically (typically every 30 days) as further defense fees and costs are incurred. Should one or more of the above carriers refuse to pay, we will likely be required to reallocate its portion of the defense fees to the remaining carriers. Similarly, should we receive agreements to defend KB from carriers which are not currently included in the allocation, we may be able to reallocate a portion of the above amounts to newly participating carriers. If we believe a carrier's refusal or denial of coverage is unjustified, we may pursue a declaratory relief judgment regarding any unresolved coverage obligations.

Please remit payment **with reference to the case description, your named insured, claim number and our reference number 0258-1051-2** to:

Palumbo Bergstrom in Trust for KB Home Inc., Tax ID # 20-0128507
17901 Von Karman, Ste. 500
Irvine, CA 92614

Please feel free to contact the undersigned at any time should you have questions regarding the matters set forth herein. We look forward to resolving your defense obligations in short time.

Very truly yours,

Erik D. Buzzard

Erik D. Buzzard
EDB/JLM:ea

Enclosures:

Attachment "A":	Participating Carrier Matrix
Attachment "B":	Tender Date Matrix
Attachment "C":	Summary of Balances Due
Attachment "D":	Invoices Included in Allocation No. 002
Attachment "E":	Matrix of Missing Invoices
Attachment "F":	CD Containing Invoices Included in Allocation 001

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Exhibit "A"

San Antonio Housing Authority v. MAGI Realty d/b/a Mirasol Joint Venture Team, et al.
Jessie and Mary Arias, et al. v. KB Home, et al.

Participating Carrier Matrix
(As of September 8, 2009)

Adjuster Contact Info:	Insurance Carrier	Named Insured
(SAHA and Arias): Juanita Liistro Claims Representative Republic Underwriters Insurance Company P.O. Box 809056 Dallas, TX 75380-9056 Tel: (800) 451-0286 x6792 Fax: (888) 224-5874 No email provided	Republic Underwriters	Ashley Plumbing File No. CPP0505856 Date of tender: 9/20/07
Elizabeth Brown Claim Consultant Complex Claim Group The Hartford Hartford Plaza, T-7-92 Hartford, CT 06115 Tel: (860) 547-5631 Elizabeth.brown@thehartford.com	Hartford Casualty & Surety	Champion Windows Claim No.: Please provide Date of tender: 8/16/07
Brian Lund, AIC Senior Claim Specialist Zurich American Insurance Company P.O. Box 66965 Chicago, IL 60666-0965 Tel: (800) 323-7592 ex 2250 Fax: (866) 257-1205 Brian.lund@zurichna.com	Zurich North America	Champion Windows Claim # 9260051391 Date of tender: 8/6/07

Participating Carrier Matrix

(As of September 8, 2009)

Adjuster Contact Info	Insurance Carrier	Named Insured
Chuck Clemons Independent Adjuster Abercrombie, Simmons & Gillette 8700 Crownhill Boulevard, Suite 801 San Antonio, TX 78209 Tel: (210) 824-3941 Fax: (210) 824-4306 No email provided (Arias): Frances M. Nugent, SCLA Litigation Claims Examiner American Claims Service, Inc. P.O. Box 8010 Goldsboro, NC 27533-8010 T: 919.759.3319/ 877.222.5522 F: 919.751.2502 No email provided	Indian Harbor	Innovative Concrete File No.: 50.5421 Claim No. 0436TX056836 (Arias) Date of tender: 10/9/07
Honorine Crowe Senior Claims Adjuster Mid Continent Casualty Company P.O. Box 2968 Tulsa, OK 74101-2968 Tel: (800) 453-4950 ext. 18 Tel: (713) 334-0050 ext. 18 Fax: (918) 586-0855 hcrowe@mcg-ins.com	Mid Continent	Innovative Concrete Claim No. 1827084 Date of tender: 8/5/08
S. Andrew Markel II ("Andy") Senior Claims Examiner Markel Corp. 4521 Highwoods Parkway Glen Allen, CA 23060 Direct: (804) 217-8878 Fax: (804) 273-1475 anmarkel@markelcorp.com	Essex Insurance Co.	L&B Roofing Claim No.: Claim #C017841-SM Date of tender: 11/3/08
Ed Milstead Senior Claims Adjuster TGA Insurance Managers 7411 John Smith, Suite 1400 San Antonio, TX 78229 Tel: (210) 949-9100 Tel: (800) 677-5170 Fax: (210) 949-9122 No email provided	Republic Vanguard Insurance	Texas V&J Construction Claim No.: 073994-EM Date of tender: 8/29/08

San Antonio Housing Authority v. MAGI Realty d/b/a Mirasol Joint Venture Team, et al.
Jessie and Mary Arias, et al. v. KB Home, et al.

Participating Carrier Matrix
(As of September 8, 2009)

Adjuster Contact Info:	Insurance Carrier	Named Insured
Safeco Plaza 1001 Fourth Ave. Seattle, WA 98154	American States Ins. Co.	TG Construction Claim No.: Please provide Date of Tender: 6/17/09
Camille L. Brown G.L. Claims Adjuster Dallas National Insurance Co. 14160 Parkway, Suite 500 Dallas, TX 75254 Tel: (800) 533-0457 x 259 Fax: (972) 233-8818 camille@dallasnational.com (Arias): Jason D. Smith General Liability Claims Manager Dallas National Insurance Company P.O. Box 800499 Dallas, TX 75380 T: 972.233.0178, x315 F: 972.233.8818 Email: jasonsmith@dallasnationalins.com	Dallas Fire Ins. Co.	TG Construction Claim No. 601916 Date of Tender: 10/31/08 Truss Construction Claim No. 602695 Claim No. 602695 (Arias) Date of Tender: 10/31/08
Seth J. Noiseux Consultant Complex Claim Group The Hartford Insurance Co. One Hartford Plaza, T-7-92 Hartford, CT 06115 P: 860.547.6258 F: 877.905.0376 Seth.noiseux@thehartford.com	The Hartford Insurance Co.	Truss Construction Claim No.: Please provide Date of Tender:

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